



**DRUG AND ALCOHOL POLICY  
AND  
TESTING PROGRAM FOR INDIVIDUALS NOT REQUIRED TO POSSESS A  
COMMERCIAL DRIVERS LICENSE**

**A. Statement of Policy**

It is the policy of the City of Ankeny, Employer, to comply with the Drug Free Workplace Act of 1988 (Public Law 100-690) and to insure a drug-free workplace. This policy is intended to insure that the mental and physical capabilities of City employees are not impaired by any controlled substances during the performance of their duties.

The following conduct is prohibited:

- (1) the use, sale, offering for sale, or possession of illegal drugs, controlled substances, imitation controlled substances, or counterfeit controlled substances, on the job, on the Employer's premises, or in Employer vehicles;
- (2) any improper use of "legal" or physician-prescribed drugs on the job, on the Employer's premises, or in Employer vehicles;
- (3) the use, sale, offering for sale, or possession of alcoholic liquor (beer, wine, or alcohol) on the job, on the Employer's premises, or in Employer vehicles; and
- (4) being under the influence of illegal drugs or controlled substances, alcoholic liquor (beer, wine, or alcohol) or improperly used prescription drugs on the job, on the Employer's premises, or in Employer vehicles.

**B. Application**

The portions of this policy which pertain to testing (Sections C through N) apply to all individuals who are not required to possess a commercial driver's license in order to perform the duties of their position.

Unless otherwise specified, this policy applies to all employees of the Employer, including part-time employees.

Employees required to possess a commercial driver's license (CDL) are also covered under the City of Ankeny Drug and Alcohol Testing Policy for positions requiring a Commercial Driver's License. Please contact the Human Resources Office for a copy of this policy.

This policy applies to off-site lunch periods or breaks when an employee is scheduled to return to work. Visitors, vendors, and contractors are governed by this policy while on Employer premises and will not be permitted to conduct business if found to be in violation of this policy.

This policy shall not be deemed to be applicable to any employee taking a prescribed dosage of a controlled substance while under the care of a licensed physician.

Nothing in the policy shall be deemed to preclude the possession of controlled substances by employees of the Police or Fire departments where such possession is necessary in connection with the carrying out of such employee's law enforcement, investigative, or emergency medical treatment and response duties and where such possession is in accordance with all rules, regulations and policies of the Police or Fire departments and with all other applicable local, state and federal statutes, rules and regulations.

### **C. Testing Provisions**

The Employer may conduct drug and alcohol testing of individuals who are not required to possess a commercial driver's license in order to perform the duties of their position under the following circumstances:

- (1) Post offer pre-employment drug testing,
- (2) Where there is reasonable suspicion of the use of illegal drugs, controlled substances or alcohol,
- (3) When investigating certain workplace injuries and vehicle accidents, and
- (4) During or after rehabilitation.

### **D. Testing Procedures**

All sample collection and testing for drugs or alcohol shall be performed in accordance with the following conditions:

1. The collection of samples shall be performed under sanitary conditions and with regard for the privacy of the individual from whom the specimen is being obtained and in a manner reasonably calculated to preclude contamination or substitution of the specimen. If the sample collected is urine, the individual shall be afforded individual privacy in the collection of the sample unless there is a reasonable suspicion that the individual may alter or substitute the urine specimen. If an individual is providing a urine sample and collection of the urine sample is directly monitored or observed by another individual, the individual who is directly monitoring or observing the collection shall be of the same gender as the individual from whom the urine sample is being collected.
2. Collection of a urine sample shall be performed so that the specimen is split into two components at the time of collection in the presence of the individual from whom the sample or specimen is collected. The second portion of the specimen or sample shall be of sufficient quantity to permit a second, independent confirmatory test as requested by the employee.
3. Sample collections shall be documented, and the procedure for documentation shall include the following:
  - (1) Samples shall be labeled so as to reasonably preclude the possibility of misidentification of the person tested in relation to the test result provided, and samples shall be handled and tracked in a manner such that control and accountability are maintained from initial collection to each stage in handling, testing, and storage, through final disposition.
  - (2) An employee shall be provided an opportunity to provide any information which may be considered relevant to the test, including identification of

prescription or nonprescription drugs currently or recently used, or other relevant medical information.

4. If a test result indicated the presence of alcohol or an illegal drug, a second test using an alternate method of analysis shall be conducted. This is considered the confirmed positive test result.
5. A medical review officer shall, prior to the results being reported to an employer, review and interpret any confirmed positive test results, including both quantitative and qualitative test results, to ensure that the chain of custody is complete and sufficient on its face.
6. The medical review officer, and the employer shall ensure, to the extent feasible, that the testing only measure, and the records concerning the testing only show or make use of information regarding, alcohol or drugs in the body.
7. If a confirmed positive test result for drugs or alcohol is reported to the employer by the medical review officer, the employer shall notify the employee in writing by certified mail, return receipt requested, of the results of the test and the employee's right to request and obtain a confirmatory test of the second sample. If the employee, in person or by certified mail, return receipt requested, requests a second confirmatory test, identifies an approved laboratory to conduct the test, and pays the employer the fee for the test within seven (7) days from the date the employer mails by certified mail, return receipt requested, the written notice to the employee of the employee's right to request a test, a second confirmatory test shall be conducted at the laboratory chosen by the employee. If the results of the second confirmatory test do not confirm the results of the initial confirmatory test, the City shall reimburse the employee for the fee paid by the employee for the second test. The initial confirmatory test shall not be considered a confirmed positive drug test for purposes of taking disciplinary action pursuant to this policy. If a confirmed positive test result for drugs or alcohol for a prospective employee is reported to the employer by the medical review officer, the employer shall notify the prospective employee in writing of the results of the test, of the name and address of the medical review officer who made the report, and of the prospective employee's right to request records.
8. The City shall pay for the costs associated with conducting the drug and/or alcohol test(s), except in the case of confirmatory challenges, in which case the employee shall reimburse the City for the costs associated with testing the second sample.

#### **E. Definitions**

As used in this policy, the term "controlled substance" means any substance specified in Schedule I, II, III, IV, or V of the federal Controlled Substances Act, 21 U.S.C. 801 et. seq. and published at 21 CFR 1308.11 and 21 CFR 1308.12, and any substance defined as a "controlled substance" by state law.

"Alcohol" means the intoxicating agent in beverage alcohol, ethyl alcohol or other low molecular weight alcohol including methyl or isopropyl alcohol. The term "alcohol" includes, but is not limited to, beer, wine, liquor, other alcoholic beverages, and medicines containing alcohol (unless the packaging seal is unbroken).

## **F. Pre-Employment Testing**

Any individual not currently employed by the City who is applying for a position, shall be required to undergo drug testing **after a conditional offer of employment has been made.**

A positive test will result in a disqualification from further consideration for employment.

Any applicant or existing employee who refused to undergo drug testing will also be disqualified from further consideration for the vacancy or eligibility list.

Notice of the testing will be a part of any notice or advertisement soliciting applicants for employment, and as part of the employment application. Applicants for employment shall also be personally informed of the requirement for a drug test at the first interview.

## **G. Reasonable Suspicion Testing**

Any employee who is reasonably suspected of being impaired by or under the influence of a controlled substance or alcohol (that is, having a controlled substance or alcohol in the body) shall be suspended from their job duties pending an investigation and verification of their condition. Employees who are reasonably suspected of being impaired by or under the influence of a controlled substance or alcohol will not be permitted to drive a motor vehicle after they have been suspended. If the employee has driven a motor vehicle to work, the employee must either make arrangements with another individual to drive their vehicle or must make arrangements for alternative transportation.

Employees may be subject to testing when there is reason to believe that an employee is using or has used alcohol or other drugs in violation of the Employer's written policy drawn from specific objective and articulable facts and reasonable inferences drawn from those facts in light of experience. For purposes of this provision, facts and inferences may be based upon, but are not limited to, any of the following:

1. Observable phenomena while at work such as direct observation of alcohol or drug use or abuse or of the physical symptoms or manifestations of being impaired due to alcohol or other drug use.
2. Abnormal conduct or erratic behavior while at work or a significant deterioration in work performance.
3. A report of alcohol or other drug use provided by a reliable and credible source.
4. Evidence that an individual has tampered with any drug or alcohol test during the individual's employment with the Employer.
5. Evidence that the employee has manufactured, sold, distributed, solicited, possessed, used, or transferred drugs while working or while on the Employer's premises or while operating the Employer's vehicle, machinery, or equipment.

The above list is not exclusive.

Reasonable suspicion testing will only be required during, just before, or just after the period of the day when the employee is engaged in work functions.

Employees who are required to submit to reasonable suspicion testing will be suspended from their job duties pending an investigation and the report of the tests. If the test of the employee results in an alcohol concentration of less than .04 and a MRO-verified negative test for the use of controlled substances, then the period of suspension will be with pay. If the test of the employee results in an alcohol concentration of more than .04 or a MRO-verified positive test for the use of controlled substances, then the period of suspension will be without pay.

#### **H. Post-Accident Testing/ Workers Compensation**

The City may require drug testing to determine if an employee is ineligible to receive Workers Compensation in accordance with Iowa Code §85.16(2). If an employee is involved in a motor vehicle accident with a city vehicle, drug testing of the employee must occur if the accident involves loss of human life; any person is transported from the scene for medical treatment; there is disabling damage to any motor vehicle requiring tow away; the employee receives a ticket for a moving traffic violation arising from the accident; or if there is reasonable suspicion that the employee is under the influence of drugs or alcohol.

The employee is permitted to obtain necessary medical attention following an accident, to leave the scene of an accident for the period necessary to obtain necessary emergency medical care, but the employee will be subject to post-accident testing and must remain readily available for testing or the employee will be deemed to have refused to submit to testing.

Alcohol tests will be administered as soon as practicable, but no later than 8 hours after the injury. Tests for controlled substances will be administered as soon as practicable, but no later than 32 hours after the injury.

#### **I. Testing During or After Rehabilitation**

Employees who have tested positive on a drug or alcohol test and whose employment has not been terminated will be subject to testing during, and after completion of, drug or alcohol rehabilitation. The number, type, and frequency of follow-up tests will be as directed by the substance abuse professional and, unless otherwise recommended, will consist of at least 6 tests in the first 12 months following the employee's return to duty.

#### **J. Cooperation Required**

Any individual who refuses to submit to an alcohol or controlled substance test, who provides false information in connection with a test, or who attempts to falsify test results through tampering, contamination, adulteration, or substitution will be subject to disciplinary action. The phrase "refuses to submit to an alcohol or controlled substance test" means that the individual:

1. Fails to provide adequate breath for testing without a valid medical explanation after he or she has received notice of the requirement for breath testing, or

2. Fails to provide adequate urine for controlled substance testing without a valid medical explanation after he or she has received notice of the requirement for urine testing, or
3. Engages in conduct that clearly obstructs the testing process.

All employees are encouraged to make use of available resources for treatment of substance abuse problems. Under certain circumstances, employees may be referred for treatment for substance abuse. An employee will be subject to disciplinary action for:

1. A failure or refusal to submit to an evaluation.
2. A failure or refusal to undergo treatment recommended as a result of an evaluation.
3. Withdrawal from or a failure to satisfactorily complete the treatment program recommended as a result of an evaluation.
4. Withdrawal from or a failure to satisfactorily participate in an aftercare program, if aftercare is prescribed as a part of treatment.

Testing shall be conducted in a manner to assure the highest degree of accuracy and reliability by using techniques and laboratory facilities which meet the requirements of the Iowa Department of Health.

#### **K. Confirmatory Testing**

If the result of the initial test is an alcohol concentration of greater than .04 or if the result of the initial test is positive for the presence of a controlled substance, a confirmatory test must be performed. The confirmatory test shall use a different chemical process than was used in the initial screen for drugs or alcohol. The confirmatory drug or alcohol test shall be a chromatographic technique such as gas chromatography/mass spectrometry, or another comparably reliable analytical method.

#### **L. Employee Requested Testing**

If a confirmed positive drug or alcohol test for a current employee is reported to the Employer by the medical review officer, the Employer shall notify the employee in writing by certified mail, return receipt requested, of the results of the test, the employee's right to request and obtain a confirmatory test of the second sample collected at an approved laboratory of the employee's choice, and the fee payable by the employee to the Employer for reimbursement of expenses concerning the test. The fee charged an employee shall be an amount that represents the costs associated with conducting the second confirmatory test, which shall be consistent with the Employer's cost for conducting the initial confirmatory test on an employee's sample.

If the employee, in person or by certified mail, return receipt requested, requests a second confirmatory test, identifies an approved laboratory to conduct the test, and pays the Employer the fee for the test within seven days from the date the Employer mails by certified mail, return receipt requested, the written notice to the employee of the employee's right to request a test, a second confirmatory test shall be conducted at the laboratory chosen by the employee. The results of the second confirmatory test shall be reported to the medical review

officer who reviewed the initial confirmatory test results and the medical review officer shall review the results and issue a report to the Employer on whether the results of the second confirmatory test confirmed the initial confirmatory test as to the presence of a specific drug or alcohol. If the results of the second test do not confirm the results of the initial confirmatory test, the Employer shall reimburse the employee for the fee paid by the employee for the second test and the initial confirmatory test shall not be considered a confirmed positive drug or alcohol test for purposes of taking disciplinary action.

#### **M. Payment for Evaluation and Treatment**

The Employer's responsibility for the cost of any evaluation, treatment, or counseling will be limited to the benefits provided by the Employer's health insurance plan for such evaluation, treatment, or counseling.

#### **N. Violations**

Disciplinary action, including termination of employment, may be taken against employees for any of the following reasons:

1. A violation of any provision of Employer Policy.
2. If the test of the employee results in a Medical Review Officer (MRO)-verified positive test for the use of controlled substances or an alcohol concentration of greater than .04.
3. A failure or refusal to submit to testing.
4. A failure or refusal to submit to an evaluation.
5. A failure or refusal to undergo treatment recommended as a result of an evaluation.
6. Withdrawal from or a failure to satisfactorily complete the treatment program recommended as a result of an evaluation.
7. Withdrawal from or a failure to satisfactorily participate in an aftercare program, if aftercare is prescribed as a part of treatment.

#### **O. Disciplinary Procedures**

Upon a violation of this policy pursuant to Section N, disciplinary action may be taken including the following:

- (1) Enrollment in an employer-provided or approved rehabilitation, treatment, or counseling program, which may include additional drug or alcohol testing, participation in and successful completion of which is a condition of continued employment. Rehabilitation is only provided (i) if the employee has been employed by the City for at least twelve of the preceding eighteen months, (ii) if it is agreed upon by the employee, and (iii) if the employee has not previously violated this policy.
- (2) Suspension of the employee, with or without pay, for a designated period of time.

- (3) Termination of employment.
- (4) Other adverse employment action in conformance with the employer's written policy and procedures, including any relevant collective bargaining agreement provisions.

Following a drug or alcohol test, but prior to receipt of the final results of the drug or alcohol test, the employee may be suspended, with or without pay, pending the outcome of the test. An employee who has been suspended shall be reinstated, with back pay, and interest on such amount at eighteen percent per annum compounded annually, if applicable, if the result of the test is not a confirmed positive test result for drugs or alcohol which indicates a violation of this policy.

#### **P. Local Collection Sites**

For pre-employment or return to duty testing, contact the following:

**Medix Occupational Health Services**

1824 SW White Birch Circle

Ankeny, IA 50023

(515) 964-9003

Hours: 8:00 a.m. - 5:00 p.m. M-F

**Unity Point Occupational Medicine-Ankeny**

1810 SW White Birch Drive Suite 111

Ankeny, IA 50023

(515) 964-6974

Hours: 8:00 a.m. – 5:00 p.m., M-F

For reasonable suspicion or post-accident testing, contact the following to complete on-site drug and alcohol testing:

**ARCpoint Labs**

5911 Meredith Drive, Suite D

Urbandale, IA 50322

(515) 868-0306 during business hours, M-F 8:30 a.m.-5:00 p.m.

(515) 460-0124 after hours and weekends

#### **Q. Education and Training**

Policy and guidelines will be distributed by the City of Ankeny to each covered employee and provided to a representative of any employee labor organization. Employees will be provided with informative training regarding the effects of alcohol and drug use, company policy, and procedures for identifying alcohol or drug problems in others. Employees who have questions about the City's drug and alcohol testing program should contact the City's Human Resources Director at City Hall.

Supervisors designated to make reasonable suspicion determinations for drug or alcohol testing under this policy shall attend a minimum of two hours of initial training and to attend, on an annual basis thereafter, a minimum of one hour of subsequent training. The training shall include, but not be limited to, information concerning the recognition of evidence of employee alcohol and other drug abuse, the documentation and corroboration of employee alcohol and



other drug abuse, and the referral of employees who abuse alcohol or other drugs to the Employee Assistance Program.

## **R. Confidentiality of Test Results**

The City shall protect the confidentiality of the results of any alcohol/drug test conducted on an employee. A file separate from the employee's personnel file will be used for medical records and reports of testing.

In order to comply with Section 503(e) of the Drug Free Workplace Act of 1988, the results of a drug test of a City of Ankeny employee or volunteer may not be disclosed without the prior written consent of such employee or volunteer, unless the disclosure would be—

- To the agency in which the employee is receiving counseling or treatment, or is otherwise participating;
- To the Medical Review Officer;
- To the Human Resources Director. The Human Resources Director may notify the department head/supervisor of the employee's absence from work or work responsibilities.
- Pursuant to the order of a court of competent jurisdiction or where required by the United States Government to defend against any challenge against any adverse personnel action.

The following progressive discipline is specifically outlined in order to ensure a fair and consistent application of this policy.

**PROGRESSIVE DISCIPLINE FOR DRUG AND ALCOHOL ENFORCEMENT**

**ALCOHOL**

<b><u>Alcohol Concentration &gt;0.04</u></b>	
1st Offense	Suspension for balance of day + 5 day suspension + mandatory SAP assessment + 1 year random testing in addition to required follow-up testing
2nd Offense	Discharge

**REFUSAL TO COMPLY WITH POLICY REQUIREMENTS**

1st Offense	Suspension for balance of day + 5 day suspension + mandatory SAP assessment + 1 year random testing in addition to required follow-up testing
2nd Offense	Discharge

**CONTROLLED SUBSTANCES**

1st Offense	Suspension for balance of day + 5 day suspension + mandatory SAP assessment + 1 year random testing in addition to required follow-up testing
2nd Offense	Discharge

I HAVE RECEIVED, READ, AND UNDERSTAND THIS POLICY

\_\_\_\_\_  
PRINTED NAME

\_\_\_\_\_  
EMPLOYEE SIGNATURE

\_\_\_\_\_  
DATE